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William P. Tyson, Director

POINTS TO REMEMBER

The Attorney General's Advisory Committee of United States Attorneys

Attorney General William French Smith has announced the appointment of five new members of the Attorney General's Advisory Committee of United States Attorneys.

The Advisory Committee was formed in September, 1973, to give the United States Attorneys a voice in Departmental policies. New members are appointed each year to provide for broad representation of United States Attorney's nationwide.

The new members are:

--Richard S. Cohen, Maine (Portland)
--A. Melvin McDonald, Arizona (Phoenix)
--Henry D. McMaster, South Carolina (Columbia)
--George L. Phillips, Southern District of Mississippi (Jackson)
--Dan K. Webb, Northern District of Illinois (Chicago)

Other members of the Committee are:

--Sarah Evans Barker, Southern District of Indiana (Indianapolis)
--James C. Cissell, Southern District of Ohio (Cincinnati)
--Francis A. Keating, II, Northern District of Oklahoma (Tulsa)
--Andrea Sheridan Ordin, Central District of California (Los Angeles)
--Edward C. Prado, Western District of Texas (San Antonio)
--George W. Proctor, Eastern District of Arkansas (Little Rock)
--Charles F. C. Ruff, District of Columbia (Washington)
--Richard A. Stacy, District of Wyoming (Cheyenne)
--R. E. Thompson, New Mexico (Albuquerque)

In advising the Attorney General, the committee conducts studies and makes recommendations to improve management of United States Attorney operations and the relationship between the Department and these federal prosecutors.

The committee helps formulate new programs for improvement of the criminal justice system at all levels.

Mr. R. E. Thompson is chairman of the committee and Ms. Sarah Evans Barker is secretary.

(Executive Office)

The United States Attorneys' Manual - Authority and Reliance Thereon

All United States Attorneys and Assistant United States Attorneys are reminded that the United States Attorneys' Manual is the authoritative source for Department of Justice policy. The Manual is intended to be comprehensive and has been designed to be the single repository of Department litigating policy. Failure to act in conformity with the Manual may constitute grounds for an administrative reprimand or other appropriate disciplinary action.

See USAM 1-1.200, 1-1.550.

(Executive Office)

CIVIL DIVISION
Assistant Attorney General J. Paul McGrath

United States v. Arrow (former 5th Cir., Unit B, October 8, 1981). D.J. #61-20488.

LACHES: COURT OF APPEALS REAFFIRMS THE PRINCIPLE THAT LACHES CANNOT BE ASSERTED AGAINST THE GOVERNMENT.

In this action, the United States sought to recover wreck removal costs from the bareboat charterer of a barge which sank in the Tennessee river in January, 1949. At the time of the sinking, both the Tennessee Valley Authority and the Coast Guard were informed, but the Army Corps of Engineers, the agency responsible for wreck removal, did not learn of the wreck until 1972, during a routine inventory of wrecks in the river. The Corps requested Arrow to remove the barge, but Arrow refused. The Corps completed removal in January, 1975 and filed this action under the Rivers and Harbors Act to recover its removal costs from Arrow. Arrow's primary defense was that laches barred the government's action, and the district court agreed.

The court of appeals has just reversed and remanded the case for trial on the undecided issues. The court rejected each of the four reasons given by the district court from departing from the well-settled principle that laches cannot be asserted against the government when it is suing to enforce public rights. The court specifically distinguished EEOC cases in which laches has been permitted as a defense, where the EEOC sued to enforce private rights rather than public rights. The court also implicitly held that knowledge of one government agency cannot be imputed to another.

Attorney: Freddi Lipstein (Civil Division)
FTS 633-4825

CIVIL DIVISION
Assistant Attorney General J. Paul McGrath

Schindler, et al. v. United States, C.A. 6 No. 79-1725 (October 9, 1981). D.J. #157-37-665.

FTCA: SIXTH CIRCUIT ADOPTS "GOOD SAMARITAN" RULE TO DETERMINE WHETHER AN ACTIONABLE DUTY AROSE IN FTCA CASE INVOLVING GOVERNMENT LICENSING OF VACCINE MANUFACTURER.

In 1962, the United States licensed Lederle Laboratories to manufacture and distribute oral polio vaccine. Nearly 13 years later, a private physician administered this type of vaccine to the plaintiffs' infant who contracted polio. Plaintiffs sued the United States under the FTCA, alleging that their child contracted polio because the United States licensed the manufacture of a vaccine formula which did not meet federal regulatory requirements. The district court dismissed the complaint on the ground that it failed to state an actionable claim under Michigan law. The court relied on state law applicable to municipal corporations, which has developed since the repeal in Michigan of municipal immunity, holding that the duty allegedly breached was owed to the public generally rather than to the plaintiffs individually and was not therefore actionable.

On appeal, the Sixth Circuit reversed the dismissal. The court of appeals held that, notwithstanding the absence of the municipal immunity doctrine in Michigan and developments in the law regarding liability for performance of public functions, the federal courts may not look to the law relating to municipal corporations but rather must look to state law on the liability of individuals under similar circumstances. The case was remanded to the district court to consider whether the action challenged involved a discretionary function, and, if not, whether the U.S. is liable under the "good Samaritan" rule set forth in the Restatement (2d), Torts §§323 and 324A. Henceforth, in the Sixth Circuit, U.S. licensing activities with respect to drugs, vaccines, etc., will be subject to the "good Samaritan" rule on the duty of care owed.

Attorney: Katherine S. Gruenheck (Civil Division)
FTS 633-4825

CIVIL DIVISION
Assistant Attorney General J. Paul McGrath

Tran Qui Than v. Regan, No. 79-4299 (9th Cir., October 13, 1981). D.J. #145-3-1790.

TRADING WITH THE ENEMY ACT: NINTH CIRCUIT UPHOLDS BLOCKING OF AMERICAN-BASED VIETNAMESE ASSETS BY SECRETARY OF THE TREASURY UNDER TRADING WITH THE ENEMY ACT.

The Secretary of the Treasury denied the application of plaintiff, a resident alien shareholder in a former South Vietnamese bank, for a license under the Trading With The Enemy Act, 50 U.S.C. App. 1 et seq., to obtain a $221,235.00 payment due to a Vietnamese contractor from the United States Army, which was blocked under the Foreign Assets Control Regulations, 31 C.F.R. 500.101 et seq. The Secretary concluded that the bank was a "designated national" and that all transactions in its American-based assets were prohibited. He rejected plaintiff's claim that a secret resolution of the bank's shareholders, made immediately prior to the fall of South Vietnam, effected a transfer of the assets of the bank to them individually or had dissolved the banking corporation. Plaintiff sued in district court for a declaratory judgment that he was entitled to an unblocking license to obtain the payment from the Army. He also sought a declaratory judgment that he did not have to place into a blocked account a similar contract payment which the Navy had made, even though it was also subject to the blocking regulations. On cross-motions for summary judgment, plaintiff and the government submitted substantial materials beyond those considered by the Secretary. The district court held that the Secretary's denial of an unblocking license was not "arbitrary, capricious, an abuse of discretion, or contrary to law." The court also rejected plaintiff's claims that the denial of a license violated the territorial limitation on the "act of state" doctrine, was an unconstitutional taking and denial of equal protection, and violated certain alleged treaty rights.

The court of appeals affirmed the decision of the district court in favor of the Secretary on virtually every issue. The panel also accepted our argument that the Secretary's decision was only reviewable under the arbitrary or capricious standard and that, although both parties submitted additional materials in the district court, review was limited to the administrative

CIVIL DIVISION
Assistant Attorney General J. Paul McGrath

record made before the Secretary. The district court did not specifically decide whether plaintiff had to place the erroneous Navy payment into a blocked account, and, although the Secretary had not counterclaimed for such relief, the panel remanded for the district court to clarify its decision on this issue. We are considering filing a petition for rehearing to persuade the panel that this limited remand is unnecessary.

Attorney: Al J. Daniel, Jr. (Civil Division)
FTS 633-4820

Bradley v. United States Department of HUD, No. 78-3596 (5th Cir. October 5, 1981). D.J. #145-17-1749.

HOUSING: FIFTH CIRCUIT HOLDS THAT HUD IS NOT REQUIRED TO ISSUE AN ENVIRONMENTAL IMPACT STATEMENT BEFORE AWARDING A BLOCK GRANT TO FUND MIAMI'S REDEVELOPMENT PLAN.

Beginning in 1975, HUD awarded block grants to Miami, Florida to plan redevelopment of its South Beach area, a blighted residential neighborhood. The city planned to transform South Beach into a commercial and resort area. Four Miami residents brought this suit against HUD and the city claiming (1) that HUD was required to issue an Environmental Impact Statement ("EIS") for the proposal, and (2) that HUD's funding of the plan violated the Housing and Community Development Act in that the city would divert money from low and moderate housing rehabilitation to finance a resort. Affirming the district court, the Fifth Circuit held that HUD's funding of the planning process was not a "major federal action" requiring an EIS. The court of appeals also held that the Housing and Community Development Act provides cities with great flexibility in determining local priorities and that HUD's funding of Miami's plan was not inconsistent with the Act.

Attorney: Anthony J. Steinmeyer (Civil Division)
FTS 633-3388

CIVIL DIVISION
Assistant Attorney General J. Paul McGrath

Collins v. Donovan, No. 81-1330 (8th Cir., October 15, 1981). D.J. #145-10-1285.

TRADE ACT: EIGHTH CIRCUIT UPHOLDS SECRETARY OF LABOR'S RIGHT TO RECOUP MISTAKENLY OBTAINED OVERPAYMENTS OF TRAINING READJUSTMENT ALLOWANCE BENEFITS.

This case involves a challenge to the Secretary of Labor's authority to recoup, pursuant to regulation, overpayments of Training Readjustment Allowance (TRA) benefits made to workers under the Trade Act of 1974, 19 U.S.C. §2101 et seq. The district court invalidated the regulation and enjoined its enforcement, holding that where such overpayments resulted not from fraud on the recipient's part but instead from the administering state's mistake in calculating the benefits involved, recovery is barred because the Act expressly authorized only recovery of overpayments procured by fraud.

On appeal, the Eighth Circuit reversed, holding that the Secretary's regulation, which authorized recoupment of erroneously made overpayments to the extent permitted by state unemployment compensation law, was reasonable and was not inconsistent with the Trade Act's provisions. It based its decision on the government's recognized common law right to recover erroneously made overpayments, which it found was codified by the regulation in question, and noted Congress' enactment of the 1966 Federal Claims Collection Act, which it found was intended to facilitate the disposition of claims such as plaintiff's without resort to litigation. Finally, the court of appeals observed that its decision comported with a recent amendment to the Trade Act, which authorizes recovery of non-fraudulent TRA overpayments unless the recipient qualifies for a waiver.

Attorney: Melissa Clark (Civil Division)
FTS 633-5431

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OFFICE OF LEGISLATIVE AFFAIRS
Assistant Attorney General Robert A. McConnell

SELECTED CONGRESSIONAL AND LEGISLATIVE ACTIVITIES

OCTOBER 13, 1981 - OCTOBER 27, 1981

Bail Reform. On October 21, 1981, the Senate Judiciary Subcommittee on Constitutional Law held a hearing on bail reform. Jeffrey Harris, Deputy Associate Attorney General, testified for the Department. The primary focus of the hearing was S. 1552, a bill to reform the bail laws. The Administration supports S. 1552 which includes a pretrial detention provision and would authorize judges to consider dangerousness to the community as a factor in determining bail; however, it eliminates money bond which the Administration does not support.

Violent Crime. On October 23, the Senate Judiciary Subcommittee on Criminal Law held a hearing on the Administration's violent crime package. The Attorney General testified and outlined the Department's legislative package on crime which is the culmination of work begun by the Attorney General's task force on violent crime. The Attorney General will be giving similar testimony on November 4 before the House Judiciary Subcommittee on Crime.

FBI/National Crime Information Center. William Bayse, Assistant Director, FBI, testified before the Subcommittee on Civil and Constitutional Rights, House Judiciary Committee, on October 22 about the Interstate Identification Index pilot project. The project is a National Crime Information Center (NCIC) program which would give the states a more active role in the NCIC system and thus reduce the burden on the FBI's center in Washington.

S. 326. On October 21, William Baxter, Assistant Attorney General, Antitrust Division, testified before the Senate Judiciary Committee on S. 326, the Small Business Motor Fuel Marketer Preservation Act of 1981. The bill would prohibit major refiners from operating retail gasoline

stations. It would also establish a daily wholesale transfer price for motor fuel and, with certain exceptions, require a supplier of motor fuel to sell or transfer fuel only at that price. Because of the severe restructuring that would take place if the bill were enacted, and the consequential anticompetitive effects, the Department strongly opposes this legislation.

S. 1674. On October 21, Herman Marcuse, Office of Legal Counsel, testified before the Senate Committee on Energy and Natural Resources concerning S. 1674, a bill which would amend and repeal certain portions of the organic acts as they apply to the Virgin Islands. A constitutional covention in the Virgin Islands has recommended new provisions for the local self government statute. If this constitution is approved by the people of the Virgin Islands, the federal organic acts will have to be altered. Among the concerns of the Department in any attempt to amend the organic acts are 1) the sovereignty of the United States, 2) the applicability to the Virgin Islands of certain provisions of the United States Constitution, 3) the applicability of grand juries in the Virgin Islands, and 4) that the federal district court should have exclusive jurisdiction over judicial proceedings relating to the federal income tax laws applicable to the Virgin Islands.

Employee Sanctions. On October 21, the Subcommittee on Immigration, Refugees and International Law, House Judiciary Committee, held a hearing on employer sanctions and employment verification systems. The members of the Committee focused on methods to determine an individual's eligibility to work in the United States. Rudolph Giuliani, Associate Attorney General, and Alan C. Nelson, Deputy Commissioner, INS, represented the Department.

Temporary Workers. On October 22, the Subcommittee on Immigration and Refugee Policy, Senate Judiciary Committee, held a hearing on temporary workers. Alan C. Nelson, Deputy Commissioner, INS, represented the Department.

Court of Appeals for the Federal Circuit. On October 20, the Senate Judiciary Committee ordered favorably reported S. 1700, the Court of Appeals for the Federal Circuit bill. By voice vote, the Committee, adopted Senator Dole's amendment to restrict the new Claims Court's equitable jurisdiction to contract cases prior to award. The language

agreed to represents a compromise, and was last week incorporated into the House counterpart of this legislation, H.R. 4482.

Busing. On October 16, William Bradford Reynolds, Assistant Attorney General, Civil Rights Division, testified before the Senate Judiciary Subcommittee on Separation of Powers. Among the bills considered at the hearing -- which dealt with the subject of busing -- was Chairman East's measure, S. 1647. The East bill is scheduled to be marked up in Subcommittee on October 23.

Revision of Executive Order on Conduct of Intelligence Activities. On October 15, Richard Willard, Office of Intelligence Policy and Review and Assistant Director Edward J. O'Malley, FBI, appeared in a closed hearing before the Senate Intelligence Committee, Subcommittee on Legislation and the Rights of Americans, concerning proposed revisions of the Executive Order on Intelligence Activities.

Asylum Adjudication Procedures. On October 16, the Senate Judiciary Committee's Subcommittee on Immigration and Refugee Policy held a hearing on adjudication procedures. Senator Simpson raised questions about the role of immigration judges and the status of the Board of Immigration Appeals. Doris Meissner, Acting Commissioner, INS, and David Milhollan, Chief Judge, Board of Immigration Appeals, testified for the Department.

Adjudication Procedures. On October 16, the Senate Judicary Committee's Subcommittee on Immigration and Refugee Policy held a hearing on adjudication procedures. Senator Simpson raised questions about the role of immigration judges and the status of the Board of Immigration Appeals. Doris Meissner, Acting Commissioner, INS, and David Milhollan, Chief Judge, Board of Immigration Appeals, testified for the Department.

Temporary Workers. On October 14, the House Judiciary Committee's Subcommittee on Immigration, Refugees and International Law held a hearing on the temporary workers program for Mexican workers. Alan Nelson, Deputy Commissioner, INS, testified for the Department.

Extradition. On October 14, Mike Abbell, Director, Office of International Affairs testified before the Senate Judiciary Committee in favor of S. 1639, a bill to modernize the antiquated statutes implementing our extradition treaties with foreign countries which were developed in the 1840's and 1880's. The only fundamental change in the bill concerns political offenses. It provides for a determination of whether a requesting country is seeking extradition of a person for a political offense, for an offense of a political character, or for the purpose of prosecuting or punishing a person for his political opinions solely. This provision is considered critical to the effectiveness of extradition as a tool in the fight against international terrorism.

GSA Surplus Property. A hearing on proposed legislation S. 1422, GSA Surplus Property, was held on October 15.

Jeffrey Harris, Deputy Associate Attorney General, spoke for the Department. Emphasizing the critical need for help in the correctional area, Mr. Harris explained that correctional use over criminal justice use of GSA surplus property was the view of the Task Force on Violent Crime and the Administration. Mr. Harris also noted the importance of expanding the scope of the bill beyond the states to include localities. According to Mr. Harris, the Task Force recommendation for the donation of surplus property for correctional use implied that statutory preference for the correctional use was the intent of the Task Force.

William R. Campbell, Deputy Commissioner, Federal Property Resources Service, GSA, spoke in favor of S. 1422. Mr. Campbell noted that GSA will be working with the Department to develop amendments to the bill to enable us to carry out the intent of the legislation while, at the same time, providing better protection for the essential interests of the United States.

Nominations. On October 15, 1981, the United States Senate received the nomination of John W. Gill, Jr. to be U.S. Attorney for the Eastern District of Tennessee.

On October 20, 1981, the United States Senate received the following nominations:

Jesse E. Eschbach, of Indiana, to be U.S. Circuit Judge for the Seventh Circuit.

John B. Jones, to be U.S. District Judge for the District of South Dakota.

James C. Cascheris, to be U.S. District Judge for the Eastern District of Virginia.

Denny L. Sampson, to be U.S. Marshal for the District of Nevada.

On October 27, 1981, the United States Senate received the nomination of Richard A. Posner of Illinois to be U.S. Circuit Judge for the Seventh Circuit.

On October 21, 1981, the Senate received the following nominations:

Joseph P. Russoniello, of California, to be U.S. Attorney for the Northern District of California.

James M. Rosenbaum, of Minnesota, to be U.S. Attorney for the District of Minnesota.

Philip N. Hogen, of South Dakota, to be U.S. Attorney for the District of South Dakota.

On October 21, 1981, the Senate confirmed the following nominations:

William L. Garwood, of Texas, to be U.S. Circuit Judge for the Fifth Circuit.

Hayden W. Head, Jr., to be U.S. District Judge for the Southern District of Texas.

James R. Nowlin, to be U.S. District Judge for the Western District of Texas.

H. Franklin Waters, to be U.S. District Judge for the Western District of Arkansas.

Joe D. Whitley, to be U.S. Attorney for the Middle District of Georgia.

Dan K. Webb, to be U.S. Attorney for the Northern District of Illinois.

Ronald E. Meredith, to be U.S. Attorney for the Western District of Kentucky.

P.A. Mangini, to be U.S. Marshal for the District of Connecticut.

Robert W. Foster, to be U.S. Marshal for the Southern District of Ohio.

Ralph L. Boling, to be U.S. Marshal for the Western District of Kentucky.

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Federal Rules of Criminal Procedure

Rule 6(e). The Grand Jury. Recording and Disclosure of Proceedings.

In a case too lengthy and complicated to be adequately summarized here, involving a request from the defendant in a state prosecution to see federal grand jury materials under Rule 6(e), the Third Circuit upheld a district court order directing the state court judge to confer with the United States Attorney as to what evidence would constitute material disclosable under the Brady rule, and to make a recommendation on that basis to assist the district court in its determination of whether Rule 6(e) permitted disclosure.

(Affirmed.)

In Re Grand Jury Proceedings (Wright II), 654 F.2d 268 (3rd Cir. June 30, 1981)

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Federal Rules of Criminal Procedure

Rule 12.2(b). Notice of Defense Based upon Mental Condition. Mental Disease or Defect Inconsistent with the Mental Element Required for the Offense Charged.

Federal Rules of Evidence

Rule 405(a). Methods of Proving Character. Reputation or opinion.

Rule 702. Testimony by Experts.

Rule 703. Bases of Opinion Testimony by Experts.

Defendant relied on an entrapment defense, but was subsequently convicted of narcotics violations. He appealed, contending that the district court abused its discretion by imposing a condition on the proffered testimony of a psychologist regarding defendant's susceptibility to influence whereby such testimony would be admissible only after the defendant had testified in the doctor's presence in order that a proper foundation would have been laid for the doctor's testimony. As a result of this condition, the expert never testified since he spent two days in the courtroom and could wait no longer. The Government contends that the testimony was properly excluded because defendant failed to give notice of his intention to call the expert witness as required by Rule 12.2(b).

The Court held that the expert testimony was improperly excluded under Rules 405(a), 702, and 703: under Rule 405(a) since the character trait of susceptibility to inducement is an element of the entrapment defense; under Rule 702 because the expert's testimony may have aided the jury in understanding

the effect that defendant's subnormal intelligence and psychological characteristics had on the relevant issues of inducement and predisposition and there is no requirement that the facts necessary to the foundation of the expert's testimony must be perceived by him at trial; and under Rule 703 because opinion testimony on facts or data perceived or made known to the expert at or before the hearing is allowed and there is no requirement that the opinion be based on the evidence at trial. As to the applicability of the notice requirements of Rule 12.2(b) to an entrapment defense, an issue which has never been ruled upon, the Court held that due to the lack of a clear indication that the Rule applies to such a defense it was an insufficient basis to exclude the proffered testimony, and in view of the fact there was no way that defense counsel could have complied fully with the Rule a rigid application of the sanction of exclusion [Rule 12.2(d)] was unwarranted.

(Reversed and remanded. Dissent filed.)

United States v. Paul Hill, 655 F.2d 512 (3d Cir., July 23, 1981).

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Federal Rules of Criminal Procedure

Rule 41. Search and Seizure.

Rule 41(h). Search and Seizure. Scope and Definition.

Defendant moved for suppression of certain evidence found by customs agent in executing an otherwise valid search warrant, arguing that customs agents no longer have the authority to apply for and execute search warrants in drug matters, as a result of Reorganization Plan No. 2 of 1973 which deprived the Customs Bureau of any responsibility or authority for enforcement of drug laws and transferred such functions to the Drug Enforcement Administration. The government contended, inter alia, that Rule 41 provided the authority for the search.

The Court first noted that the narrow legal question of the authority of customs agents to apply for and execute such warrants was one of first impression. After concluding that the relevant statutes did not confer such authority upon customs agents, the Court turned to the government's argument under Rule 41. Noting that Rule 41(h) provides that the "rule does not modify any act, inconsistent with it, regulating search, seizure and the issuance and execution of search warrants in circumstances for which special provision is made", and that there would be no reason for particular statutory provisions if Rule 41 was itself a grant of authority, the Court concluded that the rule implements the authority conferred by other sections, but does not in and of itself constitute a general grant of authority.

(Motion granted.)

United States v. John J. Harrington, 520 F.Supp. 93 (E.D. Ca. August 3, 1981)

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Federal Rules of Criminal Procedure

Rule 41(h). Search and Seizure. Scope and Definition.

See Rule 41, this issue of the Bulletin for syllabus.

United States v. John J. Harrington, 520 F.Supp. 93 (E.D. Ca. August 3, 1981)

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Federal Rules of Evidence

Rule 405(a). Methods of Proving Character. Reputation or opinion.

See Federal Rules of Criminal Procedure, Rule 12.2(b), this issue of the Bulletin for syllabus.

United States v. Paul Hill, 655 F.2d 512 (3d Cir., July 23, 1981).

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Federal Rules of Evidence

Rule 412. Rape Cases; Relevance of Victim's Past Behavior.

See Rule 412(b)(1), this issue of the Bulletin for syllabus.

United States v. Albert Nez, __F.2d__ (10th Cir. September 22, 1981)

Federal Rules of Evidence

Rule 412(b)(1). Rape Cases; Relevance of Victim's Past Behavior.

Rule 412. Rape Cases; Relevance of Victim's Past Behavior.

On appeal from his conviction of assault with intent to commit rape, defendant contended that the trial court erred by limiting cross-examination regarding the complainant's prior sexual conduct, arguing that such conduct was relevant to the complainant's motivation for bringing the charge, and that this rendered it admissible under Rule 412(b)(1).

The Court noted that there is very little case law on this relatively new rule, and turned instead to an analysis of the language and structure of the rule. There are only three circumstances under which specific instances of the victim's prior sexual behavior may be admitted under the rule: where the Constitution requires such evidence to be admitted, Rule 412(b)(1); where the defendant claims that he was not the source of the semen or injury, Rule 412(b)(2)(A); and where the prior behavior is with the defendant and is relevant to defendant's claim of consent, Rule 412(b)(2)(B). The last two sets of circumstances were inapplicable in this case, and at no point during the in camera proceeding required under Rule 412(c) did the defendant specifically offer the evidence as evidence constitutionally required to be admitted. Since this justification for admission was not raised until appeal, the Court concluded that the defendant's failure to clearly establish a proper purpose justified the district court's limitation on the cross-examination.

(Affirmed.)

United States v. Albert Nez, __F.2d__ (10th Cir. September 22, 1981)

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Federal Rules of Evidence

Rule 702. Testimony by Experts.

See Federal Rules of Criminal Procedure, Rule 12.2(b), this issue of the Bulletin for syllabus.

United States v. Paul Hill, 655 F.2d 512 (3d Cir., July 23, 1981).

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Federal Rules of Evidence

Rule 703. Bases of Opinion Testimony by Experts.

See Federal Rules of Criminal Procedure, Rule 12.2(b), this issue of the Bulletin for syllabus.

United States v. Paul Hill, 655 F.2d 512 (3d Cir., July 23, 1981).

List of U. S. Attorneys As of November 6, 1981

UNITED STATES ATTORNEYS

DISTRICT	U.S. ATTORNEY
Alabama, N	Frank W. Donaldson
Alabama, M	John C. Bell
Alabama, S	J. B. Sessions, III
Alaska	Michael R. Spaan
Arizona	A. Melvin McDonald
Arkansas, E	George W. Proctor
Arkansas, W	Larry R. McCord
California, N	Rodney H. Hamblin
California, E	William B. Shubb
California, C	Andrea Sheridan Ordin
California, S	William H. Kennedy
Canal Zone	Frank J. Violanti
Colorado	Joseph F. Dolan
Connecticut	Alan H. Nevas
Delaware	Joseph J. Farnan, Jr.
District of Columbia	Charles F. C. Ruff
Florida, N	Nickolas P. Geeker
Florida, M	Gary L. Betz
Florida, S	Atlee W. Wampler, III
Georgia, N	James E. Baker
Georgia, M	Joe D. Whitley
Georgia, S	Hinton R. Pierce
Guam	David T. Wood
Hawaii	Wallace W. Weatherwax
Idaho	Guy G. Hurlbutt
Illinois, N	Dan K. Webb
Illinois, S	James R. Burgess, Jr.
Illinois, C	Gerald D. Fines
Indiana, N	R. Lawrence Steele, Jr.
Indiana, S	Sarah Evans Barker
Iowa, N	James H. Reynolds
Iowa, S	Kermit B. Anderson
Kansas	Jim J. Marquez
Kentucky, E	Joseph L. Famularo
Kentucky, W	Ronald E. Meredith
Louisiana, E	John Volz
Louisiana, M	Stanford O. Bardwell, Jr.
Louisiana, W	J. Ransdell Keene
Maine	Richard S. Cohen
Maryland	J. Fredrick Motz
Massachusetts	William F. Weld
Michigan, E	Leonard R. Gilman
Michigan, W	John A. Smietanka
Minnesota	James M. Rosenbaum
Mississippi, N	Glen H. Davidson
Mississippi, S	George L. Phillips
Missouri, E	Thomas E. Dittmeier
Missouri, W	Robert G. Ulrich

UNITED STATES ATTORNEYS

DISTRICT	U.S. ATTORNEY
Montana	Robert L. Zimmerman
Nebraska	Thomas D. Thalken
Nevada	Lamond R. Mills
New Hampshire	W. Stephen Thayer, III
New Jersey	William W. Robertson
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Ohio, S	James C. Cissell
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Oklahoma, E	Betty O. Williams
Oklahoma, W	David L. Russell
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Pennsylvania, W	J. Alan Johnson
Puerto Rico	Raymond L. Acosta
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South Carolina	Henry D. McMaster
South Dakota	Philip N. Hogen
Tennessee, E	W. Thomas Dillard
Tennessee, M	Joe B. Brown
Tennessee, W	W. Hickman Ewing, Jr.
Texas, N	James A. Rolfe
Texas, S	Daniel K. Hedges
Texas, E	Robert J. Wortham
Texas, W	Edward C. Prado
Utah	Francis M. Wikstrom
Vermont	George W.F. Cook
Virgin Islands	Ishmael A. Meyers
Virginia, E	Justin W. Williams
Virginia, W	John S. Edwards
Washington, E	John E. Lamp
Washington, W	John C. Merkel
West Virginia, N	William A. Kolibash
West Virginia, S	Wayne A. Rich, Jr.
Wisconsin, E	Joseph P. Stadtmueller
Wisconsin, W	John R. Byrnes
Wyoming	Richard A. Stacy
North Mariana Islands	David T. Wood